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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3492/2002 & CM APPL. 28407/2023 (40 Days Delay in filing Addl. Affidavit)

MOHINDER KUMAR JAIN .....Petitioner

Through: Mr. B.V. Niren & Mr. Shubham Tyagi, Advs.

versus

UOI & ORS. .....Respondents

Through: Ms. Arti Bansal, Mr. Kamal Digpaul, Ms. Suniti Singh & Ms. Akanksha Kumari, Advs. for UOI.
Ms. Manika Tripathy, SC with Mr. Ashutosh Kaushik & Mr. Rony John, Advs.
Ms. Shobhana Takiar, SC with Mr. Prateek Dhir, Mr. Shivam Takiar & Mr. Kuljeet Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **27.11.2024**

1. This writ petition had come to be disposed of by the Court in terms of a judgment rendered on 11 September 2015. In terms of that judgment, the Court had proceeded to render a declaration that the acquisition proceedings would be deemed to have lapsed in light of Section 24(2) of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013**[1].

2. The aforesaid judgment came to be assailed by the **Delhi Development Authority**[2] by way of a Special Leave Petition and which upon leave being granted came to be converted and numbered

[1] 2013 Act
[2] DDA

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as Civil Appeal No. 7580/2022.

3. The Supreme Court on that Civil Appeal ruled that our decision would not sustain bearing in mind the judgment rendered by the Constitution Bench in **Indore Development Authority vs. Manoharlal and Ors**[3]. Consequently, the judgment of our Court was set aside and the matter was remitted for fresh consideration.

4. The writ petition as originally instituted had sought the following reliefs:-

> "a) Declare that the Notifications No. F.10(30)96/L&B/LA13417 dated 13.12.2000 under Section 4 of the Land Acquisition Act, 1894 (Annexure P-I) and Notification /Declaration No. F.10(30) 96/L&B/LA14062 dated 07.12.2001 under Section 6 of the Land Acquisition Act (Annexure P-2) in respect of Petitioner's land and farm houses built their on measuring 8 big has and 5 biswas comprising of Khasara Nos. 40/7/2 (3-11) and 40/9/2 (4-14) situated in the revenue estate of Village Bharthal, Tehsil Mehrauli, Delhi suffer from malafide and are issued in abuse and excess of authority and power apart from being violative of Article 14 and 300-A of the Constitution of India; and
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> b) Further Declare that the acquisition proceedings in respect of lands of the Petitioner situated in the revenue estate of village Bharthal, Tehsil, Mehrauli, Delhi, are void and of no legal effect being a fraud on the Land Acquisition Act, 1894 and the Constitution of India and the fraud is practiced by Respondent No. 2 to 4.
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> c) Issue Writ of Certiorari to quash and set aside Notification No. F. 10 (30)/96 1&b/la/13417 dated 13.12.2000 under section 4 of the Land Acquisition Act, 1894 (Annexure P-I) and notification/declaration no. F.10(30)/96/I&b/la/14062 dated 07.12.2001 under section 6 for the Land Acquisition Act, 1894 (Annexure P-2) and consequent notification under section 17(1) of the land acquisition act, 1894 dated 21.03.2002 in respect of the land and farm houses built their on measuring 8 big has and 5 biswas comprising of Khasra Nos. 40/7/2 (3-11) and 40/9/2 (4-14) situated in the revenue estate of Village Bharthal, Tehsil Mehrauli, Delhi belonging to the Petitioner being illegal malafide and unconstitutional; and
>
> d) Issue Writ of Mandamus directing the respondents not to in any manner whatsoever interfere with the peaceful enjoyment and possession of the said lands and structures and farm houses standing

[3] (2020) 8 SCC 129

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thereon, presently in possession and occupation of the Petitioner.

e) call for the entire records of acquisition proceedings from the offices of concerned respondents and after examination of the records to quash the acquisition proceedings.

f) any other order, direction, writ, declaration as this Hon'ble Court may in the circumstances of the case, deem fit and proper be also issued; and;

g) award costs in favour of the Petitioner."

5. During the pendency of the petition, CM APPL 2730/2005 came to be filed by the writ petitioner seeking to amend the writ petition and on the strength of which it was sought to be argued that the acquisition would not sustain in light of a scheme framed by the Union Government and as a consequence of which rural/agricultural land which had been urbanized could not be acquired. It was further sought to be contended that although an Award had come to be rendered on 09 December 2002, the compensation was offered on the basis of the land being agricultural. This, according to the writ petitioner, was itself an illegality which warranted the writ petition being allowed.

6. In terms of the said amendment application, the petitioner additionally sought the following relief:-

"(cc) Quash the notification under section 17(1) of the Land Acquisition Act because the real market value has not been offered to the Petitioner in accordance with the provisions of section 17(3A) and section 23 of the Land Acquisition Act."

7. Before us, the only argument which was addressed was that since the respondents had failed to tender 80% of the estimated compensation in terms contemplated by Section 17 of the **Land Acquisition Act, 1894**[4]**,** the acquisition was liable to be quashed.

8. It becomes relevant to note that the amendment application had come to be disposed of on 08 November 2012 with the Court

[4] 1894 Act

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providing that the averments made therein including "on the issue of relevance and impact" would be considered at the time of final hearing of the writ petition.

9. However, and on going through the various averments which are made therein, we find that the writ petitioner has woefully failed to lay any foundation in respect of the oral submission which was addressed before us today, namely, of 80% of the estimated compensation not having been tendered by the respondents.

10. As we view the amendment application and the contents thereof, the primary challenge appears to have been restricted to urbanized rural land not being liable to be acquired and the quantum of compensation as ultimately awarded. These aspects were not even urged before us during the course of hearing today.

11. In the absence of any averment having been made with respect to a violation of Section 17, we find no ground to grant relief (cc) as claimed.

12. Before closing, we deem it appropriate to note that learned counsel for the writ petitioner did not address any submissions with respect to a lapse as contemplated under Section 24(2) of the 2013 Act and which could have been tested on the principles enunciated by the Constitution Bench in *Indore Development Authority*.

13. The writ petition consequently fails and shall stand dismissed.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 27, 2024/RW

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